



EX PARTE OR LATE FILED

Wiley Rein & Fielding LLP

RECEIVED

DEC 23 2002

ORIGINAL  
ORIGINAL

1776 K STREET NW  
WASHINGTON, DC 20006  
PHONE 202.719.7000  
FAX 202.719.7049

7925 JONES BRANCH DRIVE  
SUITE 6200  
McLEAN, VA 22102  
PHONE 703.905.2800  
FAX 703.905.2820

www.wrf.com

December 23, 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Jennifer D. Hindin  
202.719.4975  
jhindin@wrf.com

**BY HAND DELIVERY**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, DC 20554

Re: *Ex Parte* Presentation in IB Docket No. 01-185

Dear Ms. Dortch:

Today, Gino Picasso and Mark Adams of Iridium Satellite LLC ("Iridium") and their counsel R. Michael Senkowski and Mary Jo Manning of Wiley Rein & Fielding LLP met with Commissioner Jonathan Adelstein and Barry Ohlson, Interim Legal Advisor for Spectrum and International. During that meeting Iridium requested that the Federal Communications Commission ("FCC") afford the Big LEO licensees a 90 day window in which to negotiate resolution of allocation, technical and non-interference standards pursuant to specified ground rules. The parties also discussed Iridium's December 3, 2002 *ex parte* request that the FCC defer authorizing the two remaining Big LEO mobile satellite service ("MSS") licensees to provide ancillary terrestrial services ("ATC") in the 1610-1626.5/2483.5-2500 MHz bands (the "Big LEO" bands) until the FCC corrects the current flawed band plan.<sup>1</sup>

Pursuant to Section 1.1206 of the FCC's rules, an original and one copy of this letter and the written material distributed at the meeting is being filed. Please do not hesitate to contact me with any questions.

Sincerely,

Jennifer D. Hindin

No. of Copies 04/  
List A B C D E

<sup>1</sup> Letter from Richard E. Wiley, counsel to Iridium Satellite LLC, to Marlene H. Dortch, Secretary, FCC (dated Dec. 3, 2002).

## BIG LEO SPECTRUM AND ATC PLAN

The FCC is considering how best to promote mobile satellite services to the American public. In the Big LEO spectrum bands, there are only two licensees – Iridium and GlobalStar. As documented in the record before the Commission, there is a pressing need to correct the outdated spectrum band plan for Big LEO operators that was premised nearly a decade ago on the belief that five licensees would be competing in the spectrum allocated. Indeed, as documented in previous filings, a decision to extend ATC authority to Big LEO licensees before – rather than after – correcting the spectrum band plan will have damaging real world effects.

In view of these compelling circumstances, the Commission should consider a simple solution to the Big LEO conundrum of ensuring that both of the two licensees have a strong and healthy future under new flexible spectrum policies. Specifically, the Commission should direct Iridium and GlobalStar to undertake a negotiated resolution of the spectrum allocation and interference issues under the following ground rules:

- Iridium and GlobalStar would be afforded a 90 day window in which to reach a negotiated resolution of allocation, technical and non-interference standards.
- The parties would be directed to conduct negotiations under the following basic parameters:
  1. The negotiations should result in comparable and equitable spectrum allocations for the two licensees for Big LEO satellite services.
  2. The negotiations should result in comparable and equitable spectrum allocations for the two licensees for ATC uses consistent with Commission requirements.
  3. The negotiations should be conducted in good faith.
- Pending the 90 day negotiation period, the implementation of ATC by Big LEO operators would be deferred and any experimental authorizations suspended.
- Failure to negotiate in good faith would result in deferral of ATC authority for that party pending the outcome of a formal notice and comment rulemaking by the Commission.
- If Iridium and GlobalStar cannot reach a negotiated resolution within 90 days from the public notice, the Commission would proceed to resolve the issues through formal notice and comment rulemaking processes.

**BOTTOM LINE: THE TWO BIG LEO LICENSEES SHOULD BE AFFORDED AN OPPORTUNITY TO RESOLVE SPECTRUM ALLOCATION AND USE ISSUES RAPIDLY THROUGH NEGOTIATIONS RATHER THAN RELYING UPON THE TRADITIONAL AND TIME CONSUMING FORMAL FCC RULEMAKING PROCESS.**

## **IRIDIUM URGES THE COMMISSION TO DEFER AUTHORIZING BIG LEO ATC UNTIL IT REVISES THE OBSOLETE AND ANTICOMPETITIVE BAND PLAN**

- Iridium requests that the Commission defer a decision on ancillary terrestrial services (“ATC”) in the Big LEO bands until the agency establishes a pro-competitive band plan.
- The existing Big LEO band plan is obsolete and anticompetitive:
  - In 1994, the FCC anticipated that five Big LEO licensees would each have roughly proportional spectrum rights.
  - Today, only two licensees remain—Iridium and Globalstar
  - Globalstar has exclusive access to 27.85 *MHz* of “paired” spectrum that should have been shared with three other operators.
  - Iridium operates in a mere **5.15 *MHz*** of spectrum in which it performs both uplink and downlink operations.
- Iridium filed a Petition for Rulemaking to correct this competitive imbalance and acquire additional Big LEO spectrum necessary to satisfy growing customer needs.
- Authorizing provision of ATC in the Big LEO bands prior to reallocating spectrum would prevent competition.
  - The proposed ATC policy is based on the faulty premise that both Big LEO licensees are able to deploy ATC.

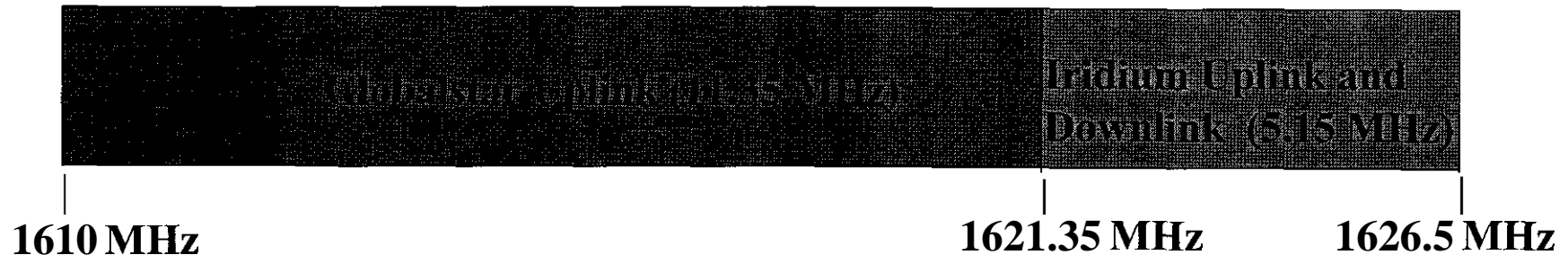
However, Iridium cannot offer ATC in its existing 5.15 *MHz* of spectrum.

  - In contrast, Globalstar, Iridium’s only competitor, currently has access to far more spectrum than it needs to continue MSS operations and deploy terrestrial services.
  - Therefore, adoption of an ATC policy without first ensuring that both Big LEO licensees have sufficient spectrum to offer both MSS and ATC would deny competition.
- Iridium proposes that the Commission ensure competition between the Big LEO licensees by allocating an additional 6 *MHz* of spectrum either within the 2.4 GHz or the 1.6 GHz band to Iridium and by reclaiming 10 *MHz* of spectrum for other spectrum users.
- In sum, the Commission must correct the current flawed band plan before—not after—authorizing ATC.

## BIG LEO BANDS

### Allocations and Assignments

#### 1.6 GHz Band



#### 2.4 GHz Band

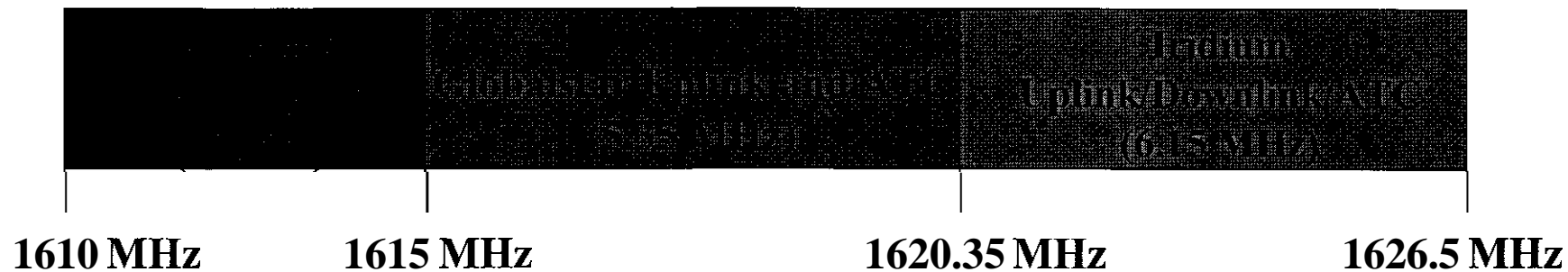


The CDMA uplink and downlink spectrum was to be shared among Globalstar, Odyssey, Ellipso and Constellation; however only Globalstar remains

# BIG LEO BANDS

## New Band Plan A

### 1.6 GHz Band

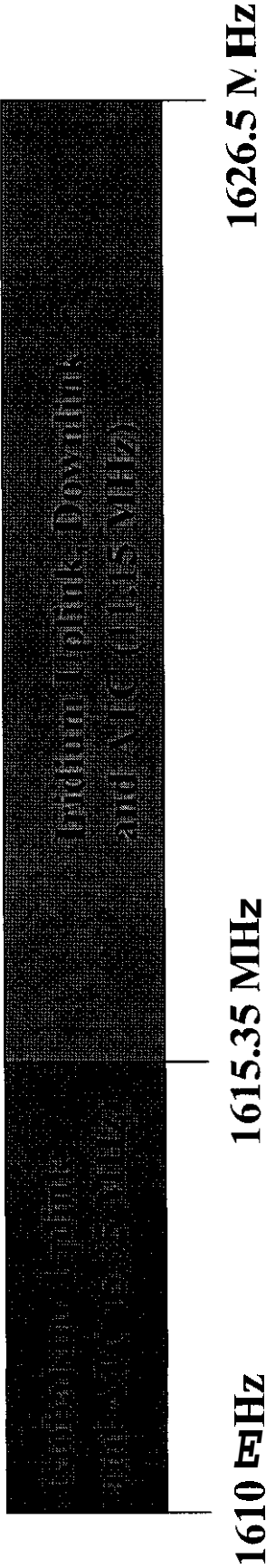


### 2.4 GHz Band



**BIG LEO BANDS**  
**New Band Plan B**

**1.6 GHz Band**



**2.4 GHz Band**

